IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FOURTEENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 4812 of 2005

Between:

Bandari Thirupalu, E-406422, S/o. B. Sikhamani, RTC Driver, R/o. Thummaluru, Pamulapadu (M), Kurnool DIstrict.

..... PETITIONER

AND

1 The Depot Manager, APSRTC, Nandikotkur, Kurnool District.
2 The Labour Court, Anantapur , Rep. by its Presiding Officer.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or direction more particularly one in the nature of writ of CERTIOTRARI by calling for the records related to and in connection with the Award of the labour Court in I.D.No. 164/2002, which was published in the gazette vide G.O.Rt.No. 1911 dt. 15-10-2004 and to set aside the same in so far it went against to the petitioner in not granting the full wages with all benefits for the out of employment period as illegal, unjust, and consequently direct the respondents to reinstate the petitioner with continuity of service with full back-wages and with all other consequential benefits.

Counsel for the Petitioner: MR.S.M.SUBHAN

Counsel for the Respondents: MR.P.VINAYAKA SWAMY

The Court at the admission stage made the following O R D E R:

When the matter was listed on 11.03.2005, none appeared for the petitioner. Therefore, the matter is listed today under the caption 'for Orders'. Even today also, there is no representation on behalf of the petitioner and hence, the writ petition is taken up for disposal.

This writ petition is directed against the award passed by the Industrial Tribunal-cum-Labour Court, Anantapur (for short 'the Tribunal') in I.D.No. 164 of 2002 dated 20.08.2004.

Heard the learned standing counsel appearing for the first respondent.

As the petitioner unauthorizedly absented from duties from 05.06.1998 to 26.06.1998, he was charge sheeted. The petitioner submitted his explanation. Not satisfied with the explanation offered by the petitioner, regular departmental enquiry was conducted. The enquiry officer submitted his report holding the petitioner guilty of the charges. A copy of the enquiry report was furnished to the petitioner to offer his objection and he submitted his explanation. Thereafter, the first respondent issued show cause notice of removal to the petitioner. After receiving explanation to the show cause notice, termination order was passed. The grievance of the petitioner is that the first respondent without affording reasonable opportunity, passed the order of removal vide proceedings No.03/1(30)/98-NDK dated 03.02.2000 and therefore, violated the principles of natural justice.

The manner of conducting enquiry is not seriously disputed before this Court. It

is not stated that the findings of the enquiry officer are not based upon the material available on record. Since the punishment imposed on the petitioner is grossly disproportionate to the proved misconduct, the Tribunal rightly ordered for reinstatement of the petitioner with continuity of service denying backwages from 03.02.2000 to 19.07.2002. While denying backwages to the petitioner, the Tribunal recorded that the petitioner was removed from service on 03.02.2000 and that he submitted appeal to the appellate authority on 13.03.2000 and the appellate authority disposed of the matter on 22.06.2000 and the petitioner filed claim petition after a lapse of two years i.e., on 19.07.2002. Hence, the finding arrived at by the Tribunal cannot be said to be perverse or contrary to law. It is for the petitioner to explain the delay of two years in approaching the Tribunal and also to establish that he was not employed during that period. In the absence of such evidence, the Labour Court rightly rejected the wages from 03.02.2000 to 19.07.2002, but, however, awarded half back wages from 20.07.2002 till the date of publication of award and full backwages from the date of publication of award till he was reinstated into service. Therefore, the order under challenge does not suffer from serious legal infirmities so as to call for interference of this Court and the Tribunal has rightly exercised its discretion under Section 11(A) of the Industrial Disputes Act, 1947.

The writ petition is devoid of merits and is dismissed at the stage of admission. No costs.

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(K.C.BHANU, J)

Dt. 14.03.2005

usd

To

1 The Depot Manager, APSRTC, Nandikotkur, Kurnool District.
2 The Presiding Officer, Labour Court, Anantapur .

3 2 CD copies.